

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

3:06 pm, Dec 22, 2022

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FREDERICK GROSS,

Plaintiff,

-against-

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

ORDER
22-CV-7440(GRB)(AYS)

INTRAREK COMPUTER INC., NORTHPORT VA
MEDICAL CENTER, ROBERT ZISKIN, in his official
capacity;

Defendants.

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GARY R. BROWN, United States District Judge:

Before the Court is an application to proceed *in forma pauperis* filed by Frederick Gross (“Plaintiff”), acting *pro se*. See Docket Entry (“DE”) 2. For the reasons that follow, Plaintiff’s application to proceed *in forma pauperis* is denied without prejudice and with leave to renew upon filing the enclosed “Application to Proceed in District Court without Prepaying Fees or Costs (Long Form)” (AO 239) (“Long Form”). Alternatively, Plaintiff may pay the \$402.00 filing fee.

To qualify for *in forma pauperis* status, the Supreme Court has long held that “an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs [inherent in litigation] and still be able to provide himself and dependents with the necessities of life.” *Adkins v. E.I. Du Pont De Nemours & Co.*, 335 U.S. 331, 339 (1948) (internal quotation marks omitted). “The purpose of the statute permitting litigants to proceed IFP [*in forma pauperis*] is to insure that indigent persons have equal access to the judicial system.” *Davis v. NYC Dept. of Educ.*, 10-CV-3812, 2010 WL 3419671, at *1 (E.D.N.Y. August 27, 2010) (citing *Gregory v. NYC Health & Hospitals Corp.*, 07-CV-1531, 2007 WL 1199010, at *1 (E.D.N.Y. Apr. 17, 2007)). The determination of whether an applicant qualifies

for *in forma pauperis* status is within the discretion of the district court. *Davis*, 2010 WL 3419671 at *1 (citing *DiGianni v. Pearson Educ.*, 10-CV-0206, 2010 WL 1741373, at *1 (E.D.N.Y. Apr. 30, 2010)). The court may dismiss a case brought by a plaintiff requesting to proceed *in forma pauperis* if the “allegation of poverty is untrue.” 28 U.S.C. § 1915(e)(2)(A).

Plaintiff’s application does not include sufficient information for the Court to determine his qualification for *in forma pauperis* status. *See* DE 2, *in toto*. Indeed, although Plaintiff reports that he was employed through February 8, 2022 and that he received New York State unemployment benefits through August 2022, he did not disclose the amount of income he received from these sources as requested on the form. *Id.* ¶¶ 2-3. Further, Plaintiff reports having no money in cash or in an account and that he does not receive any public benefits or income from any other source. *Id.* ¶¶ 3-44. However, Plaintiff reports that his residence is in foreclosure given that he is “12 years in arrears” and has left blank the space on the form that asks for the identity of any person Plaintiff financially supports and the amount of the support. *Id.* ¶¶ 6-7. The Courts find that Plaintiff’s application raises more questions than it answers and, in the absence of the required financial information, it is impossible for the Court to determine his qualification for *in forma pauperis* status. Accordingly, Plaintiff may renew his application by answering each question on the enclosed Long Form. Thus, Plaintiff’s application to proceed *in forma pauperis* is denied without prejudice and with leave to renew upon filing the enclosed Long Form. Alternatively, Plaintiff may pay the \$402.00 filing fee.¹ Plaintiff shall

¹ Plaintiff is cautioned that, once paid, there are no refunds of the filing fee regardless of the outcome of the case. Plaintiff is well-advised to consider the substance of his complaint, the requirements of Federal Rule of Civil Procedure 8, and the subject matter jurisdiction of this Court. Plaintiff is encouraged to avail himself of the free resources provided by the Pro Se Legal Assistance Program run by Hofstra Law School and he may reach them by telephone at 631-297-2575 or by e-mail: PSLAP@hofstra.edu

either file the Long Form or remit the filing fee within two (2) weeks of the date of this Order or this action will be dismissed without prejudice.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/ Gary R. Brown

Dated: December 22, 2022
Central Islip, New York

Hon. Gary R. Brown
United States District Judge